IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 20410 of 2004

Between:

B.V.Satyanarayana Murthy, S/o. Veera Venkanna,
R/o. Agraharam, Razole, East Godavari District, Rep. by his G.P.A. Holder
V.C. Prakash Reddy.

..... PETITIONER

AND

1 The Assistant City Planner, Municipal Corporation of Hyderabad,
Circle No.5, Khairatabad, Hyderabad.
2 Municipal Corporation of Hyderabad, Tank Bund Raod, Hyderabad,
Rep. by its Commissioner.
3 The District Collector, Hyderabad District, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents 1 and 2 in refusing to receive application of the Petitioner for building permission for construction in Plot No.197/A/D bearing H.No. 8-2-293/82/L/197/A/D situated at Sri Venkateswara Cooperative House Building Society for A.P. Legislators Limited in Sy.NO.403/1 of Shaikpet Village and Sy.No.102/1 of Hakeempet Village, Hyderabad as illegal, arbitrary, highhanded and violative of provisions of the Hyderabad Municipal Corporation Act, 1955 and Municipal Corporation Building Bye-laws, 1981 and consequently direct the respondents 1 and 2 to receive the application of the petitioner and accord building permission without insisting 'No Objection Certificate' from the revenue officials,

Counsel for the Petitioner:MR.POLISETTI RADHA KRISHNA

Counsel for the Respondents 1 &2: SMT.G.JYOTHI KIRAN

The Court, at the stage of admission, made the following :

ORDER

Heard the learned counsel for the petitioner and Smt. G.Jyothi Kiran, learned standing counsel for respondents 1 and 2.

The only complaint in this writ petition is that the respondent-Municipality is not receiving the application of the petitioner, which is filed for grant of sanction/permit for construction of house, on the ground that it is not accompanied by 'No Objection Certificate' from the revenue officials. It is contended that as per the decision of this Court in W.P.No.17563 of 2004 dated 30.09.2004 the application of the petitioner need not accompany any No Objection Certificate from the revenue officials.

Heard the learned counsel for the petitioner as well as learned standing counsel for respondent-Municipality.

This Court in **DISTRICT COLLECTOR V N.KRISHNA MOHAN** categorically held that obtaining No Objection Certificate from the Collector arises only when any law presupposes. Mere circular or executive order informing the petitioners to obtain No Objection Certificate along with the application filed seeking sanction of permission to construct a building is not t all warranted. This Court while reiterating the same in **HYDERABAD POTTERIES PRIVATE LIMITED V DISTRICT COLLECTOR, HYDERABAD** categorically held that sanction for grant of permission to construct a building is conferred upon the Commissioner of Municipal Corporation to consider the same by taking into consideration the documents filed by the applicant along with the application, including the permission already granted by the Corporation to the applicant earlier. The Commissioner shall not reject the application of the petitioner solely on the basis of an objection purported to have been raised by the Joint Collector. The objections, if any raised, will also be taken into consideration with the relevant material on record. The Commissioner shall not reject the application of the petitioner for grant of permission solely on the basis of entries said

to have been made in TSLR are not accompanied by any No Objection Certificate from the revenue officials. The said view is also upheld by the Division Bench in W.A.No.1096 of 2001 dated 24.12.2001.

In view of the same, the first respondent is directed to receive the application of the petitioner without insisting on 'No Objection Certificate' and on receipt of such application submitted by the petitioner, if it is otherwise in order, consider the same and pass appropriate orders in accordance with law within four weeks from the date of receipt of a copy of this order.

With the above directions, the writ petition is disposed of. No costs.

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A. GOPAL REDDY. J.

5th November, 2004

tsr.

To

1 The Assistant City Planner, Municipal Corporation of Hyderabad, Circle No.5, Khairatabad, Hyderabad.
2 Municipal Corporation of Hyderabad, Tank Bund Raod, Hyderabad, Rep. by its Commissioner.
3 The District Collector, Hyderabad District, Hyderabad.

4. Two C.D. copies.